

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kevin O'Connor (Int)	Team: Team # 2	CCRB Case #: 201400143	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 12/31/2013 11:17 PM	Location of Incident: 18th Precinct Stationhouse	Precinct: 18	18 Mo. SOL 6/30/2015	EO SOL 6/30/2015	
Date/Time CV Reported Fri, 01/03/2014 5:15 PM	CV Reported At: Precinct	How CV Reported: In-person	Date/Time Received at CCRB Mon, 01/06/2014 7:00 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Nicholas Albergio	17802	954471	PSA 7
2. LT Janna Salisbury	00000	931130	084 PCT
3. POF Jamella Abdulai	11252	948581	MTN PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Nicholas Albergio	Discourtesy: PO Nicholas Albergio spoke discourteously to individuals.	
B.POF Jamella Abdulai	Discourtesy: PO Jamella Abdulai spoke discourteously to individuals.	
§ 87(4-b) § 87(2)(g)		

Case Summary

On January 3, 2014, § 87(2)(b) filed a complaint in-person at the 18th Precinct Stationhouse (encl. 3A-B). The same day, Sgt. Reagan Nilsen called the Internal Affairs Bureau and filed a complaint on behalf of § 87(2)(b) (encl. 3C-D). On January 6, 2014, Sgt. Nilsen called the CCRB and filed a complaint on behalf of § 87(2)(b) through the Call Processing System (encl. 4A-B). On the same day, § 87(2)(b) filed an in-person complaint with the CCRB (encl. 5A-I).

On December 31, 2013, at approximately 11:17 p.m., § 87(2)(b) was on her way to visit a friend when she attempted to walk through a barricaded area at West 59th Street and 6th Avenue in Manhattan. § 87(2)(b) was subsequently arrested and transported to the 18th Precinct Stationhouse. The following allegations resulted:

- **Allegation A- Discourtesy: PO Nicholas Albergo spoke discourteously to individuals.**
- **Allegation B-Discourtesy: PO Jamella Abdulai spoke discourteously to individuals.**

§ 87(2)(g)

- § 87(4-b) § 87(2)(g)

Results of Investigation

Complainant/Witness: § 87(2)(b)

- § 87(2)(b) -old white woman, 5'7" tall, 125 pounds, with blond hair and green eyes.
- § 87(2)(b)

18th Precinct CCRB Complaint Report (encl. 3A-B)

In her CCRB complaint filed at the 18th Precinct Stationhouse, § 87(2)(b) alleged that she was verbally and physically attacked by an officer for no reason, and sustained cuts and bruises.

Civilian Statement

§ 87(2)(b) was interviewed at the CCRB on January 6, 2014 (encl. 5A-I).

On December 31, 2013, at approximately 11:17 p.m., § 87(2)(b) was on her way to meet a friend at Columbus Circle and had attempted to walk down West 59th Street and 6th Avenue in Manhattan when she noticed the street had been blocked off by several barricades. PO1, identified via investigation as Lt. Janna Salisbury and described as a white or Hispanic woman in a blue uniform, in her late 30s, approximately 5'11" tall, with black hair in a ponytail, was standing by the barricade with two other uniformed officers, solely described as two men. § 87(2)(b) took out a bottle of water or seltzer and was told by Lt. Salisbury that she could not enter the area with a bottle of water.

§ 87(2)(b) asked Lt. Salisbury if she could drink the water first before walking through West 59th Street and Lt. Salisbury told her that she would have to walk the other way and motioned eastbound. § 87(2)(b) turned around and began to walk in the opposite direction and after taking four or five steps, felt someone grab her by the right shoulder and say, "You're going the wrong way." § 87(2)(b) turned around and saw Lt. Salisbury. A "little bit of struggle" ensued, which § 87(2)(b)

§ 87(2)(b) described as getting Lt. Salisbury off of her without making physical contact. § 87(2)(b) did not recall if she still had her water bottle in her hand and believed she had dropped it on the ground after she was grabbed by Lt. Salisbury. § 87(2)(b) did not use her bottle towards Lt. Salisbury at any point.

§ 87(2)(b) became scared and walked towards a barricade approximately ten yards away when she was immediately approached and placed in handcuffs by three uniformed officers, PO2, PO3 and PO4, who remain unidentified. PO2, described as a woman in her late 20s, of a Hispanic and black mix with “white features”, approximately 5’5” tall, with a medium build, and PO3, described as a man in his late 20s, of a Hispanic and black mix, approximately 5’7” tall, with a normal build, grabbed each of § 87(2)(b)’s wrists and moved her hands up and down repeatedly, causing pain. PO2 had grabbed § 87(2)(b)’s right hand and PO3 had grabbed her left hand. § 87(2)(b) screamed that Lt. Salisbury had assaulted her but the officers did not respond.

PO5, identified via investigation as PO Nicholas Albergio and described as either a “white man with black ancestry” or Puerto Rican, in uniform, in his 20s, approximately 5’10” tall, with a husky build and short hair, walked § 87(2)(b) to a patrol vehicle. § 87(2)(b) told PO Albergio that that Lt. Salisbury had assaulted her and PO Albergio replied, “She didn’t push you. She nudged you and you resisted arrest.” PO Albergio also told § 87(2)(b) “That was my lieutenant. You didn’t do what you were told.” § 87(2)(b) was then transported to the 18th Precinct Stationhouse by two uniformed officers she could not describe.

At the stationhouse, § 87(2)(b) was handcuffed to a bench near the holding cell area. § 87(2)(b) saw several men, who she described as one “tall Iranian male”, a “white guy from California” and two “Yugoslavs,” inside a holding cell. The men began to curse at PO Albergio and PO6, identified via investigation as PO Jamella Abdulai and described as a black woman in uniform, in her late 20s to early 30s, approximately 5’6” tall, with a normal build and black hair. Both PO Albergio and PO Abdulai replied, “Shut the fuck up” or called the men “fucking stupid.” § 87(2)(b) told the officers, that as a substitute teacher, using a profanity constitutes an infraction, which prompted the officers to stop using profanity.

Attempts to Contact Civilians

§ 87(2)(b) and § 87(2)(b) who were identified by the prisoner holding pen roster as being present at the same time as § 87(2)(b) were not interviewed.

§ 87(2)(b)
On February 20, 2014, a call was placed to each of the phone numbers listed for § 87(2)(b) and voice messages requesting a call back were left. On February 24, 2014, a voice message from § 87(2)(b) requesting a call back was received. Between February 24, 2014 and March 13, 2014, three calls were placed to each of the contact numbers § 87(2)(b) provided and voice messages requesting a call back were left on each occasion. On March 17, 2014, a message from § 87(2)(b), § 87(2)(b)’s attorney, was received stating that all contact attempts should be made to § 87(2)(b).

On March 19, 2014, a call was placed to § 87(2)(b) and he stated that § 87(2)(b) did not mention any incident inside the 18th Precinct Stationhouse and that § 87(2)(b) will call back if he wishes to provide a statement. Please call letters mailed to § 87(2)(b) on February 18, 2014 and March 10, 2014, were not returned to the CCRB. A NYC Department of Correction search confirmed that § 87(2)(b) is not currently incarcerated.

§ 87(2)(b)

A please call letter mailed to § 87(2)(b) on February 18, 2014 was returned to the CCRB. A Lexis Nexis search did not provide any contact numbers. A NYC Department of Correction search confirmed that § 87(2)(b) is not currently incarcerated.

§ 87(2)(b)
§ 87(2)(b) was incarcerated at the § 87(2)(b). The investigator scheduled a visit to Rikers Island to interview § 87(2)(b) on February 21, 2014. On February 21, 2014, the investigator was informed at Rikers Island that § 87(2)(b) had been discharged § 87(2)(b). Please call letters mailed to § 87(2)(b) on March 10, 2014 and March 18, 2014 were not returned to the CCRB. No phone numbers were listed for § 87(2)(b).

§ 87(2)(b)
On February 18, 2014 and March 10, 2014, please call letters were mailed to § 87(2)(b) and were not returned to the CCRB. On March 24, 2014, a voice message from § 87(2)(b) requesting a call back was received. The same day, a call was placed to § 87(2)(b) and he stated that there was no incident inside the holding cell area and that the female officer in the holding cell area, “did nothing wrong.”

§ 87(2)(b)
Between February 20, 2014 and March 19, 2014, five calls were placed to § 87(2)(b) and continual ringing without the opportunity to leave a voice message was received on each occasion. Please call letters mailed to § 87(2)(b) on February 18, 2014 and March 10, 2014 were not returned to the CCRB. A NYC Department of Correction search confirmed that § 87(2)(b) is not currently incarcerated.

NYPD Statements:

Subject Officer: POLICE OFFICER NICHOLAS ALBERGO

- § 87(2)(b) -old Hispanic man, 5’11” tall, 220 pounds, with brown hair and blue eyes.
- PO Albergo worked from 3 p.m. on December 31, 2013 until 4:35 p.m. the following day. He was assigned to the New Year’s Eve Detail and did not have a partner. PO Albergo worked on foot and was in uniform.

Memo Book (Encl. 12A-C)

At 11:17 p.m. on December 31, 2013, § 87(2)(b) was placed under arrest for § 87(2)(b). PO Albergo observed § 87(2)(b) throw water at Lt. Salisbury. At 11:30 p.m., § 87(2)(b) was transported to the Midtown North Precinct. PO Albergo arrived at the Midtown North Precinct with Sgt. Gomiro at 11:45 p.m. At 12:30 a.m. on January 1, 2014, PO Albergo prepared arrest paperwork. At 1 a.m., § 87(2)(b) spontaneously uttered that she acknowledged what she did was wrong and did not mean to throw water at Lt. Salisbury. At 7 a.m., § 87(2)(b)’s property was vouchered for safekeeping. At 9:30 a.m., PO Albergo arrived at Manhattan Central Booking.

Complaint and Arrest Report (Encl. 13A-B and 14A-C)

The complaint report narrative notes that § 87(2)(b) was observed throwing water in Lt. Salisbury’s face after refusing a lawful order that she was not allowed to enter a secure area with a bottle of water and a bag. § 87(2)(b) then resisted arrest by flailing her arms and did not allow officers to place her in handcuffs. § 87(2)(b) was charged with § 87(2)(b).

CCRB Testimony (Encl. 15A-C)

PO Albergo was interviewed at the CCRB on March 26, 2014.
On December 31, 2013, at approximately 11:17 p.m., PO Albergo was standing at his post, located at West 59th Street and 6th Avenue, alongside Lt. Salisbury and several other officers

who PO Albergo was not familiar with. As part of his assignment, PO Albergo was screening individuals for contraband prior to their entrance into a pen for the New Year's Eve celebration. § 87(2)(b) attempted to walk through this area without being wanded. Lt. Salisbury attempted to stop § 87(2)(b) from walking through the screening area and § 87(2)(b) threw water in her face. PO Albergo did not observe any verbal interaction between § 87(2)(b) and Lt. Salisbury and did not observe Lt. Salisbury grab or push § 87(2)(b).

PO Albergo then attempted to place § 87(2)(b) in handcuffs and she resisted by moving her arms upwards to avoid being handcuffed. PO Albergo instructed § 87(2)(b) to place her hands behind her back and she refused. Two female officers, who PO Albergo did not know, assisted him in handcuffing § 87(2)(b). PO Albergo did not bend § 87(2)(b)'s hands forward and did not observe any other officer do so. § 87(2)(b) did not make any statements at the incident location and PO Albergo and an unknown Hispanic male sergeant transported § 87(2)(b) to the 18th Precinct Stationhouse.

At the stationhouse, PO Albergo placed § 87(2)(b) in a cell and explained the charges against her. § 87(2)(b) was very argumentative and denied that she had done anything wrong. PO Albergo did not have any verbal interaction with any other prisoners, which included some "drunk guys." PO Albergo did not hear any prisoners using profanity towards any officers and did not tell any prisoner, "Shut the fuck up" or call them "fucking stupid." PO Albergo did not hear any other officer use profanity towards prisoners in the holding cell area at any point.

Subject Officer: POLICE OFFICER JAMELLA ABDULAI

- § 87(2)(b) -old black woman, 5'6" tall, 147 pounds, with black hair and brown eyes.
- PO Abdulai worked from 7:15 p.m. on December 31, 2013 until 3:35 p.m. the following day. She was assigned to the Rockefeller Center Tree and worked with PO Iselaine Guichardo-Hermenegi. They were assigned to marked patrol van number 8626 and were in uniform.

Memo Book (Encl. 9A-E)

At 4:22 a.m., on January 1, 2014, one individual was placed under arrest on the corner of West 47th Street and Broadway. At 4:30 a.m., PO Abdulai arrived at the 18th Precinct. From 6:02 a.m. until 3:35 p.m., PO Abdulai completed paperwork related to her arrest.

CCRB Testimony (Encl. 11A-C)

PO Abdulai was interviewed at the CCRB on March 13, 2014.

On January 1, 2014, at approximately 4:30 a.m., PO Abdulai arrived at the 18th Precinct Stationhouse after placing § 87(2)(b) under arrest. PO Abdulai remained in the arrest processing room, located within the holding cell area, during the rest of her tour, but did not recall having any verbal interaction with any prisoners. PO Abdulai did not recall any prisoners shouting profanities at officers or yelling loudly in their cells and she did not tell any prisoner to "shut the fuck up" or call them "fucking stupid." PO Abdulai did not hear any other officer use profanity towards any prisoner in the holding cell area.

PO Abdulai was shown a photo of § 87(2)(b) and did not recall seeing her or any female prisoner in the holding cell area at any point. PO Abdulai did not recall any individual mentioning that they were a substitute teacher or asking any officer not to use profanity towards the male prisoners. PO Abdulai was not familiar with PO Albergo and did not observe any other officer have a verbal interaction with any prisoners and noted that New Year's Eve into New Year's Day is very hectic, making it difficult for her to recall the incident.

Subject Officer: LIEUTENANT JANNA SALISBURY

- § 87(2)(b) -old white woman, 6" tall, 190 pounds, with brown hair and blue eyes.

- *Lt. Salisbury worked from 9:15 a.m. on December 31, 2013 until 3 a.m. the following day. She was assigned to the New Year's Eve Detail and did not have a partner. Lt. Salisbury worked on foot and was in uniform.*

Memo Book (Encl. 7A-C)

At 3 p.m. Lt. Salisbury's post was changed to West 59th Street and 6th Avenue.

CCRB Testimony (Encl. 8A-C)

Lt. Salisbury was interviewed at the CCRB on March 13, 2014.

Lt. Salisbury was standing outside her post, located on West 59th Street and 6th Avenue, as part of her assignment with the New Year's Eve Detail. Lt. Salisbury stood next to a pen where people could enter to watch the ball drop, which was sectioned off by barriers, and supervised officers and sergeants who were wanding entrants for metal. Lt. Salisbury instructed the officers and sergeants she was supervising to tell any civilians entering the pen through the chute that bags and liquids could not be brought into the pen as per the Police Commissioner's orders.

Lt. Salisbury observed § 87(2)(b) enter the chute and wait in line to be wanded while holding a shopping bag and a bottle of water. Lt. Salisbury informed § 87(2)(b) that she could not bring these items into the pen as they were prohibited. § 87(2)(b) remained on the line and refused to throw out her water bottle and her shopping bag. § 87(2)(b) asked why she could not bring these items into the pen and Lt. Salisbury informed her that she could either throw the items out in the garbage bags by the chute or she could exit the pen. § 87(2)(b) told Lt. Salisbury that she would not throw her belongings out and Lt. Salisbury told § 87(2)(b) five or six times that she could not bring those items into the pen.

As § 87(2)(b) would not throw her shopping bag and water bottle out or exit the pen, Lt. Salisbury opened the pen, grabbed § 87(2)(b) by the arm and escorted her out of the pen. Lt. Salisbury did not recall which of § 87(2)(b)'s arms she grabbed. § 87(2)(b) became combative and poured the contents of her water bottle on Lt. Salisbury's head, covering her face and jacket. Lt. Salisbury stated that it was so cold outside that the water froze on her face. § 87(2)(b) called Lt. Salisbury a "lesbian" and a "cunt" and used "every expletive imaginable" towards Lt. Salisbury.

PO Albergo, who was the officer standing closest to Lt. Salisbury, assisted Lt. Salisbury in handcuffing § 87(2)(b) by first placing § 87(2)(b) against a three and a half to four-foot tall barrier and then handcuffing her. § 87(2)(b) swung her arms and elbows backwards in an attempt to avoid being handcuffed and was continually moving around. Lt. Salisbury did not recall any additional officers assisting in handcuffing § 87(2)(b) and although there were multiple officers present in the vicinity of the incident, did not recall any officers specifically.

After § 87(2)(b) was handcuffed, Lt. Salisbury returned to her post and supervised the pen area as PO Albergo walked § 87(2)(b) away in handcuffs in the opposite direction. Neither Lt. Salisbury nor PO Albergo bent § 87(2)(b)'s wrists forward after she was handcuffed. Lt. Salisbury was provided with a copy of the arrest report which notes that physical force was used to prevent escape and she stated that the only force used against § 87(2)(b) was placing her against the barrier and that only the minimum amount of force necessary was used. Lt. Salisbury did not observe § 87(2)(b) being placed in a patrol vehicle and did not have any further interaction with her.

NYPD Documents

18th Precinct Command Log Entry (Encl. 16)

§ 87(2)(b)'s arrest on December 31, 2013 was entered into the command log at 11:40 p.m. PO Albergo was assigned the arrest. § 87(2)(b)'s physical condition was listed as normal and she was transported to Manhattan Central Booking at 8:55 a.m. the following day.

Arrest for Incident and Disposition (Encl. 22)

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]

Status of Civil Proceedings (Encl. 23A-G)

- [§ 87(2)(b)] filed a Notice of Claim with the City of New York on [§ 87(2)(b)], claiming false arrest, false imprisonment, excessive and unnecessary force, employee negligence, negligent hiring, training, supervision, discipline and retention of employment services and violation of civil rights and immunities and seeking one million dollars as redress.

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Civilian CCRB History (Encl. 2)

- This is the first CCRB complaint filed by [§ 87(2)(b)]

Subject Officers CCRB History (Encl. 1A-C)

- PO Albergo has been a member of the service for one year and there are no substantiated CCRB allegations against him.
- PO Abdulai has been a member of the service for three years and there are no substantiated CCRB allegations against her.
- Lt. Salisbury has been a member of the service for eleven years and there are two substantiated CCRB allegations against her.
 - In CCRB case numbers 200307606 and 200500160, allegations of refusal to provide name and shield number were substantiated against Lt. Salisbury. The CCRB Board recommended charges and the NYPD's disposition was command discipline in each case.

Conclusion

Identification of Subject Officers

PO Albergo and PO Abdulai acknowledged being in the holding cell area. In addition, PO Abdulai matched the description of the female officer provided by [§ 87(2)(b)] and was the only female officer assigned to the holding cell area.

Allegation Not Pleaded

[§ 87(2)(g)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Investigative Findings and Recommendations

Allegation A-Discourtesy: PO Nicholas Albergo spoke discourteously to individuals.

Allegation B-Discourtesy: PO Jamella Abdulai spoke discourteously to individuals.

It is undisputed that PO Albergo and PO Abdulai were guarding cells in the holding cell area while § 87(2)(b) was being held in the holding cell area. It is also undisputed that several males occupied cells during the same time period as § 87(2)(b)

§ 87(2)(b) alleged that PO Albergo and PO Abdulai responded to several male prisoners' use of profanity towards them by saying, "Shut the fuck up" or by calling the prisoners "fucking stupid." § 87(2)(b) who was in the holding cell area during this time, stated that no incident in the holding cell area occurred and that the female officer, presumably PO Abdulai, "did nothing wrong." Attempts to obtain a statement from other individuals in the holding cell area were negative. Both PO Albergo and PO Abdulai denied using profanity towards any prisoner and did not recall having any verbal interaction with male prisoners.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date